

REMARKS

This application has been reviewed in light of the Office Action mailed August 11, 2006. Reconsideration of this application in view of the below remarks is respectfully requested. Claims 1, 2, 4, 5 and 7 – 35 are pending in the application with Claims 2, 4, 5, 8 – 11, 14, 17 – 20 and 26 – 30 having been previously withdrawn. By the present amendment, Claims 1 and 13 are amended. No new subject matter is introduced into the disclosure by way of the present amendment.

In the Office Action dated April 24, 2006, the Examiner had indicated that claims 7, 12, 16, 25, 31 and 34 contain patentably distinct subject matter and thus would be allowed if rewritten in independent form including all the limitations recited in the base claim and any intervening claims.

The present Advisory Action maintains the rejections cited in the Final Rejection of April 24, 2006, because the Examiner contends that, with regards to Applicants' remarks directed at Madar et al., a device which is capable of detecting a first amount of characteristics may subsequently detect a second amount of the characteristics as well. Additionally, the Examiner contends that a ratio inherently requires two criteria.

In response independent Claims 1 and 13 have been amended in an effort to clarify that the second amount of characteristics is selected from optical characteristics other than color-specific characteristics. Hence the second amount of characteristics is not the same type of characteristic as the first amount of characteristics, which is a number of pixels having a specific color. The amended limitations are believed to clarify that the first amount of characteristics and second amount of characteristics are two different characteristics of the image, where the first amount of characteristics is the number of pixels of a specific color, and the second amount of

characteristics may be related to e.g., luminance, hue, saturation or any other non-color specific characteristic.

Madar discloses determining a ratio of intensities at detectors behind red-brown and yellow-green filters and determining malignancy of a lesion based on whether the ratio crosses a threshold. Thus, Madar uses the ratio of intensities of red-brown light to yellow-green light, to determine malignancy. However, Madar fails to disclose or suggest using the number of pixels of a specific color in combination with a second characteristic selected from optical characteristics other than color-specific characteristics.

It should also be noted that measuring intensity of a particular color is not equivalent to measuring the number pixels of a given color. While a pixel may be of a given color its intensity may vary between 1 to 256 levels, thus while a fixed number of pixels may be set to the same color, their individual and hence total intensity can vary wildly.

Gazdzinski, Hiyama and Kobayashi do not disclose or suggest any means for determining validity, or malignancy, of an image. Therefore, Gazdzinski, Hiyama and Kobayashi, taken alone or in any proper combination with Madar, fail to properly overcome the deficiencies identified in Madar. Accordingly, Applicants respectfully submit that Claims 7, 12, 16, 25, 31 and 34 are patentably distinct and allowable over the cited prior art references.

CONCLUSIONS

In view of the foregoing amendments and remarks, it is respectfully submitted that all claims presently pending in the application, namely, Claims 1, 7, 12, 13, 15, 16, 21 – 25 and 31 – 35 are believed to be in condition for allowance and patentably distinguishable over the art of record.

If the Examiner should have any questions concerning this communication or feels that an interview would be helpful, the Examiner is requested to call Applicant's undersigned attorney at the number indicated below.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Thomas Spinelli', with a large, stylized flourish extending from the end of the signature.

Thomas Spinelli
Registration No. 39,533

SCULLY, SCOTT, MURPHY & PRESSER, P.C.
400 Garden City Plaza - Ste. 300
Garden City, New York 11530
(516) 742-4343

TS:DAT:jam